

1 **Code of Judicial Conduct for the State of Florida**

2 **As Amended through July 3, 2008**

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31

1 **Preamble**  
2  
3

4 Our legal system is based on the principle that an independent, fair and competent  
5 judiciary will interpret and apply the laws that govern us. The role of the judiciary is  
6 central to American concepts of justice and the rule of law. Intrinsic to all sections of this  
7 Code are the precepts that judges, individually and collectively, must respect and honor  
8 the judicial office as a public trust and strive to enhance and maintain confidence in our  
9 legal system. The judge is an arbiter of facts and law for the resolution of disputes and a  
10 highly visible symbol of government under the rule of law.

11  
12 The Code of Judicial Conduct establishes standards for ethical conduct of judges. It  
13 consists of broad statements called Canons, specific rules set forth in Sections under  
14 each Canon, a Definitions Section, an Application Section and Commentary. The text of  
15 the Canons and the Sections, including the Definitions and Application Sections, is  
16 authoritative. The Commentary, by explanation and example, provides guidance with  
17 respect to the purpose and meaning of the Canons and Sections. The Commentary is  
18 not intended as a statement of additional rules. When the text uses "shall" or "shall not,"  
19 it is intended to impose binding obligations the violation of which, if proven, can result in  
20 disciplinary action. When "should" or "should not" is used, the text is intended as  
21 hortatory and as a statement of what is or is not appropriate conduct but not as a  
22 binding rule under which a judge may be disciplined. When "may" is used, it denotes  
23 permissible discretion or, depending on the context, it refers to action that is not covered  
24 by specific proscriptions.

25  
26 The Canons and Sections are rules of reason. They should be applied consistent with  
27 constitutional requirements, statutes, other court rules and decisional law and in the  
28 context of all relevant circumstances. The Code is not to be construed to impinge on the  
29 essential independence of judges in making judicial decisions.

30  
31 The Code is designed to provide guidance to judges and candidates for judicial office  
32 and to provide a structure for regulating conduct through disciplinary agencies. It is not  
33 designed or intended as a basis for civil liability or criminal prosecution. Furthermore,  
34 the purpose of the Code would be subverted if the Code were invoked by lawyers for  
35 mere tactical advantage in a proceeding.

36  
37 The text of the Canons and Sections is intended to govern conduct of judges and to be  
38 binding upon them. It is not intended, however, that every transgression will result in  
39 disciplinary action. Whether disciplinary action is appropriate, and the degree of  
40 discipline to be imposed, should be determined through a reasonable and reasoned  
41 application of the text and should depend on such factors as the seriousness of the  
42 transgression, whether there is a pattern of improper activity and the effect of the  
43 improper activity on others or on the judicial system.

44  
45 The Code of Judicial Conduct is not intended as an exhaustive guide for the conduct of  
46 judges. They should also be governed in their judicial and personal conduct by general

1 ethical standards. The Code is intended, however, to state basic standards which  
2 should govern the conduct of all judges and to provide guidance to assist judges in  
3 establishing and maintaining high standards of judicial and personal conduct.  
4  
5

1 **Definitions**

2  
3  
4 "Appropriate authority" denotes the authority with responsibility for initiation of  
5 disciplinary process with respect to the violation to be reported.  
6

7 "Candidate." A candidate is a person seeking selection for or retention in judicial office  
8 by election or appointment. A person becomes a candidate for judicial office as soon as  
9 he or she makes a public announcement of candidacy, opens a campaign account as  
10 defined by Florida law, declares or files as a candidate with the election or appointment  
11 authority, or authorizes solicitation or acceptance of contributions or support. The term  
12 "candidate" has the same meaning when applied to a judge seeking election or  
13 appointment to nonjudicial office.  
14

15 "Court personnel" does not include the lawyers in a proceeding before a judge.  
16

17 "De minimis" denotes an insignificant interest that could not raise reasonable question  
18 as to a judge's impartiality.  
19

20 "Economic interest" denotes ownership of a more than de minimis legal or equitable  
21 interest, or a relationship as officer, director, advisor, or other active participant in the  
22 affairs of a party, except that:  
23

24 (i) ownership of an interest in a mutual or common investment fund that holds securities  
25 is not an economic interest in such securities unless the judge participates in the  
26 management of the fund or a proceeding pending or impending before the judge could  
27 substantially affect the value of the interest;  
28

29 (ii) service by a judge as an officer, director, advisor, or other active participant in an  
30 educational, religious, charitable, fraternal, sororal, or civic organization, or service by a  
31 judge's spouse, parent, or child as an officer, director, advisor, or other active participant  
32 in any organization does not create an economic interest in securities held by that  
33 organization;  
34

35 (iii) a deposit in a financial institution, the proprietary interest of a policy holder in a  
36 mutual insurance company, of a depositor in a mutual savings association, or of a  
37 member in a credit union, or a similar proprietary interest, is not an economic interest in  
38 the organization unless a proceeding pending or impending before the judge could  
39 substantially affect the value of the interest;  
40

41 (iv) ownership of government securities is not an economic interest in the issuer unless  
42 a proceeding pending or impending before the judge could substantially affect the value  
43 of the securities.  
44

45 "Fiduciary" includes such relationships as personal representative, administrator,  
46 trustee, guardian, and attorney in fact.

1 "Impartiality" or "impartial" denotes absence of bias or prejudice in favor of, or against,  
2 particular parties or classes of parties, as well as maintaining an open mind in  
3 considering issues that may come before the judge.  
4  
5 "Judge." When used herein this term means Article V, Florida Constitution judges and,  
6 where applicable, those persons performing judicial functions under the direction or  
7 supervision of an Article V judge.  
8  
9 "Knowingly," "knowledge," "known," or "knows" denotes actual knowledge of the fact in  
10 question. A person's knowledge may be inferred from circumstances.  
11  
12 "Law" denotes court rules as well as statutes, constitutional provisions, and decisional  
13 law.  
14  
15 "Member of the candidate's family" denotes a spouse, child, grandchild, parent,  
16 grandparent, or other relative or person with whom the candidate maintains a close  
17 familial relationship.  
18  
19 "Member of the judge's family" denotes a spouse, child, grandchild, parent,  
20 grandparent, or other relative or person with whom the judge maintains a close familial  
21 relationship.  
22  
23 "Member of the judge's family residing in the judge's household" denotes any relative of  
24 a judge by blood or marriage, or a person treated by a judge as a member of the judge's  
25 family, who resides in the judge's household.  
26  
27 "Nonpublic information" denotes information that, by law, is not available to the public.  
28 Nonpublic information may include but is not limited to: information that is sealed by  
29 statute or court order, impounded or communicated in camera; and information offered  
30 in grand jury proceedings, presentencing reports, dependency cases, or psychiatric  
31 reports.  
32  
33 "Political organization" denotes a political party or other group, the principal purpose of  
34 which is to further the election or appointment of candidates to political office.  
35  
36 "Public election." This term includes primary and general elections; it includes partisan  
37 elections, nonpartisan elections, and retention elections.  
38  
39 "Require." The rules prescribing that a judge "require" certain conduct of others are, like  
40 all of the rules in this Code, rules of reason. The use of the term "require" in that context  
41 means a judge is to exercise reasonable direction and control over the conduct of those  
42 persons subject to the judge's direction and control.  
43  
44 "Third degree of relationship." The following persons are relatives within the third  
45 degree of relationship: great-grandparent, grandparent, parent, uncle, aunt, brother,  
46 sister, child, grandchild, great-grandchild, nephew, or niece.  
47

1 **Canon 1. A Judge Shall Uphold the Integrity and Independence of the Judiciary**

2  
3  
4 An independent and honorable judiciary is indispensable to justice in our society. A  
5 judge should participate in establishing, maintaining, and enforcing high standards of  
6 conduct, and shall personally observe those standards so that the integrity and  
7 independence of the judiciary may be preserved. The provisions of this Code should be  
8 construed and applied to further that objective.

9  
10 **COMMENTARY**

11  
12 Deference to the judgments and rulings of courts depends upon public confidence in the  
13 integrity and independence of judges. The integrity and independence of judges depend  
14 in turn upon their acting without fear or favor. Although judges should be independent,  
15 they must comply with the law, including the provisions of this Code. Public confidence  
16 in the impartiality of the judiciary is maintained by the adherence of each judge to this  
17 responsibility. Conversely, violation of this Code diminishes public confidence in the  
18 judiciary and thereby does injury to the system of government under law.  
19

1 **Canon 2. A Judge Shall Avoid Impropriety and the Appearance of Impropriety in**  
2 **all of the Judge's Activities**

3  
4  
5 A. A judge shall respect and comply with the law and shall act at all times in a manner  
6 that promotes public confidence in the integrity and impartiality of the judiciary.  
7

8 B. A judge shall not allow family, social, political or other relationships to influence the  
9 judge's judicial conduct or judgment. A judge shall not lend the prestige of judicial office  
10 to advance the private interests of the judge or others; nor shall a judge convey or  
11 permit others to convey the impression that they are in a special position to influence  
12 the judge. A judge shall not testify voluntarily as a character witness.  
13

14 C. A judge should not hold membership in an organization that practices invidious  
15 discrimination on the basis of race, sex, religion, or national origin. Membership in a  
16 fraternal, sororal, religious, or ethnic heritage organization shall not be deemed to be a  
17 violation of this provision.  
18

19  
20 **COMMENTARY**

21  
22 Canon 2A. Irresponsible or improper conduct by judges erodes public confidence in the  
23 judiciary. A judge must avoid all impropriety and appearance of impropriety. A judge  
24 must expect to be the subject of constant public scrutiny. A judge must therefore accept  
25 restrictions on the judge's conduct that might be viewed as burdensome by the ordinary  
26 citizen and should do so freely and willingly. Examples are the restrictions on judicial  
27 speech imposed by Sections 3B(9) and (10) that are indispensable to the maintenance  
28 of the integrity, impartiality, and independence of the judiciary.  
29

30 The prohibition against behaving with impropriety or the appearance of impropriety  
31 applies to both the professional and personal conduct of a judge. Because it is not  
32 practicable to list all prohibited acts, the proscription is necessarily cast in general terms  
33 that extend to conduct by judges that is harmful although not specifically mentioned in  
34 the Code. Actual improprieties under this standard include violations of law, court rules,  
35 or other specific provisions of this Code. The test for appearance of impropriety is  
36 whether the conduct would create in reasonable minds, with knowledge of all the  
37 relevant circumstances that a reasonable inquiry would disclose, a perception that the  
38 judge's ability to carry out judicial responsibilities with integrity, impartiality, and  
39 competence is impaired.  
40

41 See also Commentary under Section 2C.  
42

43 Canon 2B. Maintaining the prestige of judicial office is essential to a system of  
44 government in which the judiciary functions independently of the executive and  
45 legislative branches. Respect for the judicial office facilitates the orderly conduct of  
46 legitimate judicial functions. Judges should distinguish between proper and improper

1 use of the prestige of office in all of their activities. For example, it would be improper for  
2 a judge to allude to his or her judgeship to gain a personal advantage such as  
3 deferential treatment when stopped by a police officer for a traffic offense. Similarly,  
4 judicial letterhead must not be used for conducting a judge's personal business,  
5 although a judge may use judicial letterhead to write character reference letters when  
6 such letters are otherwise permitted under this Code.

7  
8 A judge must avoid lending the prestige of judicial office for the advancement of the  
9 private interests of others. For example, a judge must not use the judge's judicial  
10 position to gain advantage in a civil suit involving a member of the judge's family. In  
11 contracts for publication of a judge's writings, a judge should retain control over the  
12 advertising to avoid exploitation of the judge's office. As to the acceptance of awards,  
13 see Section 5D(5) and Commentary.

14  
15 Although a judge should be sensitive to possible abuse of the prestige of office, a judge  
16 may, based on the judge's personal knowledge, serve as a reference or provide a letter  
17 of recommendation. However, a judge must not initiate the communication of  
18 information to a sentencing judge or a probation or corrections officer but may provide  
19 to such persons information for the record in response to a formal request.

20  
21 Judges may participate in the process of judicial selection by cooperating with  
22 appointing authorities and screening committees seeking names for consideration, and  
23 by responding to official inquiries concerning a person being considered for a judgeship.  
24 See also Canon 7 regarding use of a judge's name in political activities.

25  
26 A judge must not testify voluntarily as a character witness because to do so may lend  
27 the prestige of the judicial office in support of the party for whom the judge testifies.  
28 Moreover, when a judge testifies as a witness, a lawyer who regularly appears before  
29 the judge may be placed in the awkward position of cross-examining the judge. A judge  
30 may, however, testify when properly summoned. Except in unusual circumstances  
31 where the demands of justice require, a judge should discourage a party from requiring  
32 the judge to testify as a character witness.

33  
34 Canon 2C. Florida Canon 2C is derived from a recommendation by the American Bar  
35 Association and from the United States Senate Committee Resolution, 101st Congress,  
36 Second Session, as adopted by the United States Senate Judiciary Committee on  
37 August 2, 1990.

38  
39 Membership of a judge in an organization that practices invidious discrimination gives  
40 rise to perceptions that the judge's impartiality is impaired. Whether an organization  
41 practices invidious discrimination is often a complex question to which judges should be  
42 sensitive. The answer cannot be determined from a mere examination of an  
43 organization's current membership rolls but rather depends on the history of the  
44 organization's selection of members and other relevant factors, such as that the  
45 organization is dedicated to the preservation of religious, ethnic, or cultural values of  
46 legitimate common interest to its members, or that it is in fact and effect an intimate,

1 purely private organization whose membership limitations could not be constitutionally  
2 prohibited. See *New York State Club Ass'n. Inc. v. City of New York*, 487 U.S. 1, 108  
3 S.Ct. 2225, 101 L.Ed.2d 1 (1988); *Board of Directors of Rotary International v. Rotary*  
4 *Club of Duarte*, 481 U.S. 537, 107 S.Ct. 1940, 95 L.Ed.2d 474 (1987); *Roberts v. United*  
5 *States Jaycees*, 468 U.S. 609, 104 S.Ct. 3244, 82 L.Ed. 2d 462 (1984). Other relevant  
6 factors include the size and nature of the organization and the diversity of persons in the  
7 locale who might reasonably be considered potential members. Thus the mere absence  
8 of diverse membership does not by itself demonstrate a violation unless reasonable  
9 persons with knowledge of all the relevant circumstances would expect that the  
10 membership would be diverse in the absence of invidious discrimination. Absent such  
11 factors, an organization is generally said to discriminate invidiously if it arbitrarily  
12 excludes from membership on the basis of race, religion, sex, or national origin persons  
13 who would otherwise be admitted to membership.

14  
15 This Canon is not intended to prohibit membership in religious and ethnic clubs, such as  
16 Knights of Columbus, Masons, B'nai B'rith, and Sons of Italy; civic organizations, such  
17 as Rotary, Kiwanis, and The Junior League; young people's organizations, such as Boy  
18 Scouts, Girl Scouts, Boy's Clubs, and Girl's Clubs; and charitable organizations, such as  
19 United Way and Red Cross.

20  
21 Although Section 2C relates only to membership in organizations that invidiously  
22 discriminate on the basis of race, sex, religion or national origin, a judge's membership  
23 in an organization that engages in any discriminatory membership practices prohibited  
24 by the law of the jurisdiction also violates Canon 2 and Section 2A and gives the  
25 appearance of impropriety. In addition, it would be a violation of Canon 2 and Section  
26 2A for a judge to arrange a meeting at a club that the judge knows practices invidious  
27 discrimination on the basis of race, sex, religion or national origin in its membership or  
28 other policies, or for the judge to regularly use such a club. Moreover, public  
29 manifestation by a judge of the judge's knowing approval of invidious discrimination on  
30 any basis gives the appearance of impropriety under Canon 2 and diminishes public  
31 confidence in the integrity and impartiality of the judiciary, in violation of Section 2A.

32  
33 When a person who is a judge on the date this Code becomes effective learns that an  
34 organization to which the judge belongs engages in invidious discrimination that would  
35 preclude membership under Section 2C or under Canon 2 and Section 2A, the judge is  
36 permitted, in lieu of resigning, to make immediate efforts to have the organization  
37 discontinue its invidiously discriminatory practices, but is required to suspend  
38 participation in any other activities of the organization. If the organization fails to  
39 discontinue its invidiously discriminatory practices as promptly as possible (and in all  
40 events within a year of the judge's first learning of the practices), the judge is required to  
41 resign immediately from the organization.

1 **Canon 3. A Judge Shall Perform the Duties of Judicial Office Impartially and**  
2 **Diligently**

3  
4  
5 A. Judicial Duties in General.

6  
7 The judicial duties of a judge take precedence over all the judge's other activities. The  
8 judge's judicial duties include all the duties of the judge's office prescribed by law. In the  
9 performance of these duties, the specific standards set forth in the following sections  
10 apply.

11  
12 B. Adjudicative Responsibilities.

13  
14 (1) A judge shall hear and decide matters assigned to the judge except those in which  
15 disqualification is required.

16  
17 (2) A judge shall be faithful to the law and maintain professional competence in it. A  
18 judge shall not be swayed by partisan interests, public clamor, or fear of criticism.

19  
20 (3) A judge shall require order and decorum in proceedings before the judge.

21  
22 (4) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses,  
23 lawyers, and others with whom the judge deals in an official capacity, and shall require  
24 similar conduct of lawyers, and of staff, court officials, and others subject to the judge's  
25 direction and control.

26  
27 (5) A judge shall perform judicial duties without bias or prejudice. A judge shall not, in  
28 the performance of judicial duties, by words or conduct manifest bias or prejudice,  
29 including but not limited to bias or prejudice based upon race, sex, religion, national  
30 origin, disability, age, sexual orientation, or socioeconomic status, and shall not permit  
31 staff, court officials, and others subject to the judge's direction and control to do so. This  
32 section does not preclude the consideration of race, sex, religion, national origin,  
33 disability, age, sexual orientation, socioeconomic status, or other similar factors when  
34 they are issues in the proceeding.

35  
36 (6) A judge shall require lawyers in proceedings before the judge to refrain from  
37 manifesting, by words, gestures, or other conduct, bias or prejudice based upon race,  
38 sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status,  
39 against parties, witnesses, counsel, or others. This Section 3B(6) does not preclude  
40 legitimate advocacy when race, sex, religion, national origin, disability, age, sexual  
41 orientation, socioeconomic status, or other similar factors are issues in the proceeding.

42  
43 (7) A judge shall accord to every person who has a legal interest in a proceeding, or that  
44 person's lawyer, the right to be heard according to law. A judge shall not initiate, permit,  
45 or consider ex parte communications, or consider other communications made to the

1 judge outside the presence of the parties concerning a pending or impending  
2 proceeding except that:

3  
4 (a) Where circumstances require, ex parte communications for scheduling,  
5 administrative purposes, or emergencies that do not deal with substantive matters or  
6 issues on the merits are authorized, provided:

7  
8 (i) the judge reasonably believes that no party will gain a procedural or tactical  
9 advantage as a result of the ex parte communication, and

10  
11 (ii) the judge makes provision promptly to notify all other parties of the substance of the  
12 ex parte communication and allows an opportunity to respond.

13  
14 (b) A judge may obtain the advice of a disinterested expert on the law applicable to a  
15 proceeding before the judge if the judge gives notice to the parties of the person  
16 consulted and the substance of the advice and affords the parties reasonable  
17 opportunity to respond.

18  
19 (c) A judge may consult with other judges or with court personnel whose function is to  
20 aid the judge in carrying out the judge's adjudicative responsibilities.

21  
22 (d) A judge may, with the consent of the parties, confer separately with the parties and  
23 their lawyers in an effort to mediate or settle matters pending before the judge.

24  
25 (e) A judge may initiate or consider any ex parte communications when expressly  
26 authorized by law to do so.

27  
28 (8) A judge shall dispose of all judicial matters promptly, efficiently, and fairly.

29  
30 (9) A judge shall not, while a proceeding is pending or impending in any court, make  
31 any public comment that might reasonably be expected to affect its outcome or impair  
32 its fairness or make any nonpublic comment that might substantially interfere with a fair  
33 trial or hearing. The judge shall require similar abstention on the part of court personnel  
34 subject to the judge's direction and control. This Section does not prohibit judges from  
35 making public statements in the course of their official duties or from explaining for  
36 public information the procedures of the court. This Section does not apply to  
37 proceedings in which the judge is a litigant in a personal capacity.

38  
39 (10) A judge shall not, with respect to parties or classes of parties, cases, controversies  
40 or issues likely to come before the court, make pledges, promises or commitments that  
41 are inconsistent with the impartial performance of the adjudicative duties of the office.

42  
43 (11) A judge shall not commend or criticize jurors for their verdict other than in a court  
44 order or opinion in a proceeding, but may express appreciation to jurors for their service  
45 to the judicial system and the community.  
46

1 (12) A judge shall not disclose or use, for any purpose unrelated to judicial duties,  
2 nonpublic information acquired in a judicial capacity.

3  
4 C. Administrative Responsibilities.

5  
6 (1) A judge shall diligently discharge the judge's administrative responsibilities without  
7 bias or prejudice and maintain professional competence in judicial administration, and  
8 should cooperate with other judges and court officials in the administration of court  
9 business.

10  
11 (2) A judge shall require staff, court officials, and others subject to the judge's direction  
12 and control to observe the standards of fidelity and diligence that apply to the judge and  
13 to refrain from manifesting bias or prejudice in the performance of their official duties.

14  
15 (3) A judge with supervisory authority for the judicial performance of other judges shall  
16 take reasonable measures to assure the prompt disposition of matters before them and  
17 the proper performance of their other judicial responsibilities.

18  
19 (4) A judge shall not make unnecessary appointments. A judge shall exercise the power  
20 of appointment impartially and on the basis of merit. A judge shall avoid nepotism and  
21 favoritism. A judge shall not approve compensation of appointees beyond the fair value  
22 of services rendered.

23  
24 D. Disciplinary Responsibilities.

25  
26 (1) A judge who receives information or has actual knowledge that substantial likelihood  
27 exists that another judge has committed a violation of this Code shall take appropriate  
28 action.

29  
30 (2) A judge who receives information or has actual knowledge that substantial likelihood  
31 exists that a lawyer has committed a violation of the Rules Regulating The Florida Bar  
32 shall take appropriate action.

33  
34 (3) Acts of a judge, in the discharge of disciplinary responsibilities, required or permitted  
35 by Sections 3D(1) and 3D(2) are part of a judge's judicial duties and shall be absolutely  
36 privileged, and no civil action predicated thereon may be instituted against the judge.

37  
38 E. Disqualification.

39  
40 (1) A judge shall disqualify himself or herself in a proceeding in which the judge's  
41 impartiality might reasonably be questioned, including but not limited to instances  
42 where:

43  
44 (a) the judge has a personal bias or prejudice concerning a party or a party's lawyer, or  
45 personal knowledge of disputed evidentiary facts concerning the proceeding;  
46

1 (b) the judge served as a lawyer or was the lower court judge in the matter in  
2 controversy, or a lawyer with whom the judge previously practiced law served during  
3 such association as a lawyer concerning the matter, or the judge has been a material  
4 witness concerning it;

5  
6 (c) the judge knows that he or she individually or as a fiduciary, or the judge's spouse,  
7 parent, or child wherever residing, or any other member of the judge's family residing in  
8 the judge's household has an economic interest in the subject matter in controversy or  
9 in a party to the proceeding or has any other more than de minimis interest that could  
10 be substantially affected by the proceeding;

11  
12 (d) the judge or the judge's spouse, or a person within the third degree of relationship to  
13 either of them, or the spouse of such a person:

14  
15 (i) is a party to the proceeding, or an officer, director, or trustee of a party;

16  
17 (ii) is acting as a lawyer in the proceeding;

18  
19 (iii) is known by the judge to have a more than de minimis interest that could be  
20 substantially affected by the proceeding;

21  
22 (iv) is to the judge's knowledge likely to be a material witness in the proceeding;

23  
24 (e) the judge's spouse or a person within the third degree of relationship to the judge  
25 participated as a lower court judge in a decision to be reviewed by the judge;

26  
27 (f) the judge, while a judge or a candidate for judicial office, has made a public  
28 statement that commits, or appears to commit, the judge with respect to:

29  
30 (i) parties or classes of parties in the proceeding;

31  
32 (ii) an issue in the proceeding; or

33  
34 (iii) the controversy in the proceeding.

35  
36 (2) A judge should keep informed about the judge's personal and fiduciary economic  
37 interests, and make a reasonable effort to keep informed about the economic interests  
38 of the judge's spouse and minor children residing in the judge's household.

#### 39 40 F. Remittal of Disqualification.

41  
42 A judge disqualified by the terms of Section 3E may disclose on the record the basis of  
43 the judge's disqualification and may ask the parties and their lawyers to consider, out of  
44 the presence of the judge, whether to waive disqualification. If following disclosure of  
45 any basis for disqualification other than personal bias or prejudice concerning a party,  
46 the parties and lawyers, without participation by the judge, all agree the judge should

1 not be disqualified, and the judge is then willing to participate, the judge may participate  
2 in the proceeding. The agreement shall be incorporated in the record of the proceeding.  
3

#### 4 5 COMMENTARY

6  
7 Canon 3B(4). The duty to hear all proceedings fairly and with patience is not  
8 inconsistent with the duty to dispose promptly of the business of the court. Judges can  
9 be efficient and business-like while being patient and deliberate.

10  
11 Canon 3B(5). A judge must refrain from speech, gestures or other conduct that could  
12 reasonably be perceived as sexual harassment and must require the same standard of  
13 conduct of others subject to the judge's direction and control.

14  
15 A judge must perform judicial duties impartially and fairly. A judge who manifests bias  
16 on any basis in a proceeding impairs the fairness of the proceeding and brings the  
17 judiciary into disrepute. Facial expression and body language, in addition to oral  
18 communication, can give to parties or lawyers in the proceeding, jurors, the media and  
19 others an appearance of judicial bias. A judge must be alert to avoid behavior that may  
20 be perceived as prejudicial.

21  
22 Canon 3B(7). The proscription against communications concerning a proceeding  
23 includes communications from lawyers, law teachers, and other persons who are not  
24 participants in the proceeding, except to the limited extent permitted.

25  
26 To the extent reasonably possible, all parties or their lawyers shall be included in  
27 communications with a judge.

28  
29 Whenever presence of a party or notice to a party is required by Section 3B(7), it is the  
30 party's lawyer, or if the party is unrepresented, the party who is to be present or to  
31 whom notice is to be given.

32  
33 An appropriate and often desirable procedure for a court to obtain the advice of a  
34 disinterested expert on legal issues is to invite the expert to file a brief as *amicus curiae*.

35  
36 Certain *ex parte* communication is approved by Section 3B(7) to facilitate scheduling  
37 and other administrative purposes and to accommodate emergencies. In general,  
38 however, a judge must discourage *ex parte* communication and allow it only if all the  
39 criteria stated in Section 3B(7) are clearly met. A judge must disclose to all parties all *ex*  
40 *parte* communications described in Sections 3B(7)(a) and 3B(7)(b) regarding a  
41 proceeding pending or impending before the judge.

42  
43 A judge must not independently investigate facts in a case and must consider only the  
44 evidence presented.  
45

1 A judge may request a party to submit proposed findings of fact and conclusions of law,  
2 so long as the other parties are apprised of the request and are given an opportunity to  
3 respond to the proposed findings and conclusions.  
4

5 A judge must make reasonable efforts, including the provision of appropriate  
6 supervision, to ensure that Section 3B(7) is not violated through law clerks or other  
7 personnel on the judge's staff.  
8

9 If communication between the trial judge and the appellate court with respect to a  
10 proceeding is permitted, a copy of any written communication or the substance of any  
11 oral communication should be provided to all parties.  
12

13 Canon 3B(8). In disposing of matters promptly, efficiently, and fairly, a judge must  
14 demonstrate due regard for the rights of the parties to be heard and to have issues  
15 resolved without unnecessary cost or delay. Containing costs while preserving  
16 fundamental rights of parties also protects the interests of witnesses and the general  
17 public. A judge should monitor and supervise cases so as to reduce or eliminate dilatory  
18 practices, avoidable delays, and unnecessary costs. A judge should encourage and  
19 seek to facilitate settlement, but parties should not feel coerced into surrendering the  
20 right to have their controversy resolved by the courts.  
21

22 Prompt disposition of the court's business requires a judge to devote adequate time to  
23 judicial duties, to be punctual in attending court and expeditious in determining matters  
24 under submission, and to insist that court officials, litigants, and their lawyers cooperate  
25 with the judge to that end.  
26

27 Canon 3B(9) and 3B(10). Sections 3B(9) and (10) restrictions on judicial speech are  
28 essential to the maintenance of the integrity, impartiality, and independence of the  
29 judiciary. A pending proceeding is one that has begun but not yet reached final  
30 disposition. An impending proceeding is one that is anticipated but not yet begun. The  
31 requirement that judges abstain from public comment regarding a pending or impending  
32 proceeding continues during any appellate process and until final disposition. Sections  
33 3B(9) and (10) do not prohibit a judge from commenting on proceedings in which the  
34 judge is a litigant in a personal capacity, but in cases such as a writ of mandamus  
35 where the judge is a litigant in an official capacity, the judge must not comment publicly.  
36 The conduct of lawyers relating to trial publicity is governed by Rule 4-3.6 of the Rules  
37 Regulating The Florida Bar.  
38

39 Canon 3B(10). Commending or criticizing jurors for their verdict may imply a judicial  
40 expectation in future cases and may impair a juror's ability to be fair and impartial in a  
41 subsequent case.  
42

43 Canon 3C(4). Appointees of a judge include assigned counsel, officials such as  
44 referees, commissioners, special magistrates, receivers, mediators, arbitrators, and  
45 guardians and personnel such as clerks, secretaries, and bailiffs. Consent by the parties

1 to an appointment or an award of compensation does not relieve the judge of the  
2 obligation prescribed by Section 3C(4). See also Fla.Stat. § 112.3135 (1991).

3  
4 Canon 3D. Appropriate action may include direct communication with the judge or  
5 lawyer who has committed the violation, other direct action if available, or reporting the  
6 violation to the appropriate authority or other agency. If the conduct is minor, the Canon  
7 allows a judge to address the problem solely by direct communication with the offender.  
8 A judge having knowledge, however, that another judge has committed a violation of  
9 this Code that raises a substantial question as to that other judge's fitness for office or  
10 has knowledge that a lawyer has committed a violation of the Rules of Professional  
11 Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness or  
12 fitness as a lawyer in other respects, is required under this Canon to inform the  
13 appropriate authority. While worded differently, this Code provision has the identical  
14 purpose as the related Model Code provisions.

15  
16 Canon 3E(1). Under this rule, a judge is disqualified whenever the judge's impartiality  
17 might reasonably be questioned, regardless of whether any of the specific rules in  
18 Section 3E(1) apply. For example, if a judge were in the process of negotiating for  
19 employment with a law firm, the judge would be disqualified from any matters in which  
20 that law firm appeared, unless the disqualification was waived by the parties after  
21 disclosure by the judge.

22  
23 A judge should disclose on the record information that the judge believes the parties or  
24 their lawyers might consider relevant to the question of disqualification, even if the judge  
25 believes there is no real basis for disqualification. The fact that the judge conveys this  
26 information does not automatically require the judge to be disqualified upon a request  
27 by either party, but the issue should be resolved on a case-by-case basis. Similarly, if a  
28 lawyer or party has previously filed a complaint against the judge with the Judicial  
29 Qualifications Commission, that the fact does not automatically require disqualification  
30 of the judge. Such disqualification should be on a case-by-case basis.

31  
32 By decisional law, the rule of necessity may override the rule of disqualification. For  
33 example, a judge might be required to participate in judicial review of a judicial salary  
34 statute, or might be the only judge available in a matter requiring immediate judicial  
35 action, such as a hearing on probable cause or a temporary restraining order. In the  
36 latter case, the judge must disclose on the record the basis for possible disqualification  
37 and use reasonable efforts to transfer the matter to another judge as soon as  
38 practicable.

39  
40 Canon 3E(1)(b). A lawyer in a government agency does not ordinarily have an  
41 association with other lawyers employed by that agency within the meaning of Section  
42 3E(1)(b); a judge formerly employed by a government agency, however, should  
43 disqualify himself or herself in a proceeding if the judge's impartiality might reasonably  
44 be questioned because of such association.

1 Canon 3E(1)(d). The fact that a lawyer in a proceeding is affiliated with a law firm with  
2 which a relative of the judge is affiliated does not of itself disqualify the judge. Under  
3 appropriate circumstances, the fact that "the judge's impartiality might reasonably be  
4 questioned" under Section 3E(1), or that the relative is known by the judge to have an  
5 interest in the law firm that could be "substantially affected by the outcome of the  
6 proceeding" under Section 3E(1)(d)(iii) may require the judge's disqualification.  
7

8 Canon 3E(1)(e). It is not uncommon for a judge's spouse or a person within the third  
9 degree of relationship to a judge to also serve as a judge in either the trial or appellate  
10 courts. However, where a judge exercises appellate authority over another judge, and  
11 that other judge is either a spouse or a relationship within the third degree, then this  
12 Code requires disqualification of the judge that is exercising appellate authority. This  
13 Code, under these circumstances, precludes the appellate judge from participating in  
14 the review of the spouse's or relation's case.  
15

16 Canon 3F. A remittal procedure provides the parties an opportunity to proceed without  
17 delay if they wish to waive the disqualification. To assure that consideration of the  
18 question of remittal is made independently of the judge, a judge must not solicit, seek,  
19 or hear comment on possible remittal or waiver of the disqualification unless the lawyers  
20 jointly propose remittal after consultation as provided in the rule. A party may act  
21 through counsel if counsel represents on the record that the party has been consulted  
22 and consents. As a practical matter, a judge may wish to have all parties and their  
23 lawyers sign the remittal agreement.  
24

1 **Canon 4. A Judge is Encouraged to Engage in Activities to Improve the Law, the**  
2 **Legal System, and the Administration of Justice**  
3  
4

5 A. A judge shall conduct all of the judge's quasi-judicial activities so that they do not:  
6

7 (1) cast reasonable doubt on the judge's capacity to act impartially as a judge;  
8

9 (2) undermine the judge's independence, integrity, or impartiality;  
10

11 (3) demean the judicial office;  
12

13 (4) interfere with the proper performance of judicial duties;  
14

15 (5) lead to frequent disqualification of the judge; or  
16

17 (6) appear to a reasonable person to be coercive.  
18

19 B. A judge is encouraged to speak, write, lecture, teach and participate in other quasi-  
20 judicial activities concerning the law, the legal system, the administration of justice, and  
21 the role of the judiciary as an independent branch within our system of government,  
22 subject to the requirements of this Code.  
23

24 C. A judge shall not appear at a public hearing before, or otherwise consult with, an  
25 executive or legislative body or official except on matters concerning the law, the legal  
26 system or the administration of justice or except when acting pro se in a matter involving  
27 the judge or the judge's interests.  
28

29 D. A judge is encouraged to serve as a member, officer, director, trustee or non-legal  
30 advisor of an organization or governmental entity devoted to the improvement of the  
31 law, the legal system, the judicial branch, or the administration of justice, subject to the  
32 following limitations and the other requirements of this Code.  
33

34 (1) A judge shall not serve as an officer, director, trustee or non-legal advisor if it is likely  
35 that the organization  
36

37 (a) will be engaged in proceedings that would ordinarily come before the judge, or  
38

39 (b) will be engaged frequently in adversary proceedings in the court of which the judge  
40 is a member or in any court subject to the appellate jurisdiction of the court of which the  
41 judge is a member.  
42

43 (2) A judge as an officer, director, trustee or non-legal advisor, or as a member or  
44 otherwise:  
45

1 (a) may assist such an organization in planning fund-raising and may participate in the  
2 management and investment of the organization's funds, but shall not personally or  
3 directly participate in the solicitation of funds, except that a judge may solicit funds from  
4 other judges over whom the judge does not exercise supervisory or appellate authority;  
5

6 (b) may appear or speak at, receive an award or other recognition at, be featured on the  
7 program of, and permit the judge's title to be used in conjunction with an event of such  
8 an organization or entity, but if the event serves a fund-raising purpose, the judge may  
9 participate only if the event concerns the law, the legal system, or the administration of  
10 justice and the funds raised will be used for a law related purpose(s);  
11

12 (c) may make recommendations to public and private fund-granting organizations on  
13 projects and programs concerning the law, the legal system or the administration of  
14 justice;  
15

16 (d) shall not personally or directly participate in membership solicitation if the solicitation  
17 might reasonably be perceived as coercive;  
18

19 (e) shall not make use of court premises, staff, stationery, equipment, or other  
20 resources for fund-raising purposes, except for incidental use for activities that concern  
21 the law, the legal system, or the administration of justice, subject to the requirements of  
22 this Code.  
23

## 24 COMMENTARY 25

26  
27 Canon 4A. A judge is encouraged to participate in activities designed to improve the  
28 law, the legal system, and the administration of justice. In doing so, however, it must be  
29 understood that expressions of bias or prejudice by a judge, even outside the judge's  
30 judicial activities, may cast reasonable doubt on the judge's capacity to act impartially as  
31 a judge and may undermine the independence and integrity of the judiciary.  
32 Expressions which may do so include jokes or other remarks demeaning individuals on  
33 the basis of their race, sex, religion, national origin, disability, age, sexual orientation or  
34 socioeconomic status. See Canon 2C and accompanying Commentary.  
35

36 Canon 4B. This canon was clarified in order to encourage judges to engage in activities  
37 to improve the law, the legal system, and the administration of justice. As a judicial  
38 officer and person specially learned in the law, a judge is in a unique position to  
39 contribute to the improvement of the law, the legal system, and the administration of  
40 justice, including, but not limited to, the improvement of the role of the judiciary as an  
41 independent branch of government, the revision of substantive and procedural law, the  
42 improvement of criminal and juvenile justice, and the improvement of justice in the  
43 areas of civil, criminal, family, domestic violence, juvenile delinquency, juvenile  
44 dependency, probate and motor vehicle law. To the extent that time permits, a judge is  
45 encouraged to do so, either independently or through a bar association, judicial  
46 conference or other organization dedicated to the improvement of the law. Support of

1 pro bono legal services by members of the bench is an activity that relates to  
2 improvement of the administration of justice. Accordingly, a judge may engage in  
3 activities intended to encourage attorneys to perform pro bono services, including, but  
4 not limited to: participating in events to recognize attorneys who do pro bono work,  
5 establishing general procedural or scheduling accommodations for pro bono attorneys  
6 as feasible, and acting in an advisory capacity to pro bono programs. Judges are  
7 encouraged to participate in efforts to promote the fair administration of justice, the  
8 independence of the judiciary and the integrity of the legal profession, which may  
9 include the expression of opposition to the persecution of lawyers and judges in other  
10 countries.

11  
12 The phrase "subject to the requirements of this Code" is included to remind judges that  
13 the use of permissive language in various sections of the Code does not relieve a judge  
14 from the other requirements of the Code that apply to the specific conduct.

15  
16 Canon 4C. See Canon 2B regarding the obligation to avoid improper influence.

17  
18 Canon 4D(1). The changing nature of some organizations and of their relationship to the  
19 law makes it necessary for a judge regularly to reexamine the activities of each  
20 organization with which the judge is affiliated to determine if it is proper for the judge to  
21 continue the affiliation. For example, the boards of some legal aid organizations now  
22 make policy decisions that may have political significance or imply commitment to  
23 causes that may come before the courts for adjudication.

24  
25 A judge may be a speaker or guest of honor at an organization's fund-raising event if  
26 the event concerns the law, the legal system, or the administration of justice, and the  
27 judge does not engage in the direct solicitation of funds. However, judges may not  
28 participate in or allow their titles to be used in connection with fund-raising activities on  
29 behalf of an organization engaging in advocacy if such participation would cast doubt on  
30 the judge's capacity to act impartially as a judge.

31  
32 Use of an organization letterhead for fund-raising or membership solicitation does not  
33 violate Canon 4D(2) provided the letterhead lists only the judge's name and office or  
34 other position in the organization, and, if comparable designations are listed for other  
35 persons, the judge's judicial designation. In addition, a judge must also make  
36 reasonable efforts to ensure that the judge's staff, court officials and others subject to  
37 the judge's direction and control do not solicit funds on the judge's behalf for any  
38 purpose, charitable or otherwise.  
39

1 **Canon 5. A Judge Shall Regulate Extrajudicial Activities to Minimize the Risk of**  
2 **Conflict with Judicial Duties**

3  
4  
5 A. Extrajudicial Activities in General. A judge shall conduct all of the judge's extra-  
6 judicial activities so that they do not:

- 7  
8 (1) cast reasonable doubt on the judge's capacity to act impartially as a judge;  
9  
10 (2) undermine the judge's independence, integrity, or impartiality;  
11  
12 (3) demean the judicial office;  
13  
14 (4) interfere with the proper performance of judicial duties;  
15  
16 (5) lead to frequent disqualification of the judge; or  
17  
18 (6) appear to a reasonable person to be coercive.

19  
20 B. Avocational Activities. A judge is encouraged to speak, write, lecture, teach and  
21 participate in other extrajudicial activities concerning non-legal subjects, subject to the  
22 requirements of this Code.

23  
24 C. Governmental, Civic or Charitable Activities.

25  
26 (1) A judge shall not appear at a public hearing before, or otherwise consult with, an  
27 executive or legislative body or official except on matters concerning the law, the legal  
28 system or the administration of justice or except when acting pro se in a matter involving  
29 the judge or the judge's interests.

30  
31 (2) A judge shall not accept appointment to a governmental committee or commission or  
32 other governmental position that is concerned with issues of fact or policy on matters  
33 other than the improvement of the law, the legal system, the judicial branch, or the  
34 administration of justice. A judge may, however, represent a country, state or locality on  
35 ceremonial occasions or in connection with historical, educational or cultural activities.

36  
37 (3) A judge may serve as an officer, director, trustee or non-legal advisor of an  
38 educational, religious, charitable, fraternal, sororal or civic organization not conducted  
39 for profit, subject to the following limitations and the other requirements of this Code.

40  
41 (a) A judge shall not serve as an officer, director, trustee or non-legal advisor if it is likely  
42 that the organization

43  
44 (i) will be engaged in proceedings that would ordinarily come before the judge, or  
45

1 (ii) will be engaged frequently in adversary proceedings in the court of which the judge  
2 is a member or in any court subject to the appellate jurisdiction of the court of which the  
3 judge is a member.

4  
5 (b) A judge as an officer, director, trustee or non-legal advisor, or as a member or  
6 otherwise:

7  
8 (i) may assist such an organization in planning fund-raising and may participate in the  
9 management and investment of the organization's funds, but shall not personally or  
10 directly participate in the solicitation of funds, except that a judge may solicit funds from  
11 other judges over whom the judge does not exercise supervisory or appellate authority;

12  
13 (ii) shall not personally or directly participate in membership solicitation if the solicitation  
14 might reasonably be perceived as coercive;

15  
16 (iii) shall not use or permit the use of the prestige of judicial office for fund-raising or  
17 membership solicitation.

18  
19 D. Financial Activities.

20  
21 (1) A judge shall not engage in financial and business dealings that

22  
23 (a) may reasonably be perceived to exploit the judge's judicial position, or

24  
25 (b) involve the judge in frequent transactions or continuing business relationships with  
26 those lawyers or other persons likely to come before the court on which the judge  
27 serves.

28  
29 (2) A judge may, subject to the requirements of this Code, hold and manage  
30 investments of the judge and members of the judge's family, including real estate, and  
31 engage in other remunerative activity.

32  
33 (3) A judge shall not serve as an officer, director, manager, general partner, advisor or  
34 employee of any business entity except that a judge may, subject to the requirements of  
35 this Code, manage and participate in:

36  
37 (a) a business closely held by the judge or members of the judge's family, or

38  
39 (b) a business entity primarily engaged in investment of the financial resources of the  
40 judge or members of the judge's family.

41  
42 (4) A judge shall manage the judge's investments and other financial interests to  
43 minimize the number of cases in which the judge is disqualified. As soon as the judge  
44 can do so without serious financial detriment, the judge shall divest himself or herself of  
45 investments and other financial interests that might require frequent disqualification.  
46

1 (5) A judge shall not accept, and shall urge members of the judge's family residing in the  
2 judge's household not to accept, a gift, bequest, favor or loan from anyone except for:

3  
4 (a) a gift incident to a public testimonial, books, tapes and other resource materials  
5 supplied by publishers on a complimentary basis for official use, or an invitation to the  
6 judge and the judge's spouse or guest to attend a bar-related function or an activity  
7 devoted to the improvement of the law, the legal system or the administration of justice;

8  
9 (b) a gift, award or benefit incident to the business, profession or other separate activity  
10 of a spouse or other family member of a judge residing in the judge's household,  
11 including gifts, awards and benefits for the use of both the spouse or other family  
12 member and the judge (as spouse or family member), provided the gift, award or benefit  
13 could not reasonably be perceived as intended to influence the judge in the  
14 performance of judicial duties;

15  
16 (c) ordinary social hospitality;

17  
18 (d) a gift from a relative or friend, for a special occasion, such as a wedding, anniversary  
19 or birthday, if the gift is fairly commensurate with the occasion and the relationship;

20  
21 (e) a gift, bequest, favor or loan from a relative or close personal friend whose  
22 appearance or interest in a case would in any event require disqualification under  
23 Canon 3E;

24  
25 (f) a loan from a lending institution in its regular course of business on the same terms  
26 generally available to persons who are not judges;

27  
28 (g) a scholarship or fellowship awarded on the same terms and based on the same  
29 criteria applied to other applicants; or

30  
31 (h) any other gift, bequest, favor or loan, only if: the donor is not a party or other person  
32 who has come or is likely to come or whose interests have come or are likely to come  
33 before the judge; and, if its value, or the aggregate value in a calendar year of such  
34 gifts, bequests, favors, or loans from a single source, exceeds \$100.00, the judge  
35 reports it in the same manner as the judge reports gifts under Canon 6B(2).

36  
37 E. Fiduciary Activities.

38  
39 (1) A judge shall not serve as executor, administrator or other personal representative,  
40 trustee, guardian, attorney in fact or other fiduciary, except for the estate, trust or person  
41 of a member of the judge's family, and then only if such service will not interfere with the  
42 proper performance of judicial duties.

43  
44 (2) A judge shall not serve as a fiduciary if it is likely that the judge as a fiduciary will be  
45 engaged in proceedings that would ordinarily come before the judge, or if the estate,

1 trust or ward becomes involved in adversary proceedings in the court on which the  
2 judge serves or one under its appellate jurisdiction.

3  
4 (3) The same restrictions on financial activities that apply to a judge personally also  
5 apply to the judge while acting in a fiduciary capacity.

6  
7 F. Service as Arbitrator or Mediator.

8  
9 (1) A judge shall not act as an arbitrator or mediator or otherwise perform judicial  
10 functions in a private capacity unless expressly authorized by law or Court rule. A judge  
11 may, however, take the necessary educational and training courses required to be a  
12 qualified and certified arbitrator or mediator, and may fulfill the requirements of  
13 observing and conducting actual arbitration or mediation proceedings as part of the  
14 certification process, provided such program does not, in any way, interfere with the  
15 performance of the judge's judicial duties.

16  
17 (2) A senior judge may serve as a mediator in a case in which the senior judge is not  
18 presiding only if the senior judge is certified pursuant to rule 10.100, Florida Rules for  
19 Certified and Court-Appointed Mediators. Such senior judge may be associated with  
20 entities that are solely engaged in offering mediation or other alternative dispute  
21 resolution services but that are not otherwise engaged in the practice of law. However,  
22 such senior judge may in no other way advertise, solicit business, associate with a law  
23 firm, or participate in any other activity that directly or indirectly promotes his or her  
24 mediation services. A senior judge shall not serve as a mediator in any case in which  
25 the judge is currently presiding. A senior judge who provides mediation services shall  
26 not preside over the same type of case the judge mediates in the circuit where the  
27 mediation services are provided; however, a senior judge may preside over other types  
28 of cases (e.g., criminal, juvenile, family law, probate) in the same circuit and may  
29 preside over cases in circuits in which the judge does not provide mediation services. A  
30 senior judge shall disclose if the judge is being utilized or has been utilized as a  
31 mediator by any party, attorney, or law firm involved in the case pending before the  
32 senior judge. Absent express consent of all parties, a senior judge is prohibited from  
33 presiding over any case involving any party, attorney, or law firm that is utilizing or has  
34 utilized the judge as a mediator within the previous three years. A senior judge shall  
35 disclose any negotiations or agreements for the provision of mediation services  
36 between the senior judge and any of the parties or counsel to the case.

37  
38 G. Practice of Law. A judge shall not practice law. Notwithstanding this prohibition, a  
39 judge may act pro se and may, without compensation, give legal advice to and draft or  
40 review documents for a member of the judge's family.

1 **Canon 6. Fiscal Matters of a Judge Shall be Conducted in a Manner That Does Not**  
2 **Give the Appearance of Influence or Impropriety; a Judge Shall Regularly File**  
3 **Public Reports as Required by Article II, Section 8, of the Constitution of Florida,**  
4 **and Shall Publicly Report Gifts; Additional Financial Information Shall be Filed**  
5 **With the Judicial Qualifications Commission to Ensure Full Financial Disclosure**  
6

7  
8 A. Compensation for Quasi-Judicial and Extrajudicial Services and Reimbursement of  
9 Expenses.

10  
11 A judge may receive compensation and reimbursement of expenses for the quasi-  
12 judicial and extrajudicial activities permitted by this Code, if the source of such  
13 payments does not give the appearance of influencing the judge in the performance of  
14 judicial duties or otherwise give the appearance of impropriety, subject to the following  
15 restrictions:

16  
17 (1) Compensation. Compensation shall not exceed a reasonable amount nor shall it  
18 exceed what a person who is not a judge would receive for the same activity.  
19

20 (2) Expense Reimbursement. Expense reimbursement shall be limited to the actual cost  
21 of travel, food, and lodging reasonably incurred by the judge and, where appropriate to  
22 the occasion, to the judge's spouse. Any payment in excess of such an amount is  
23 compensation.  
24

25 B. Public Financial Reporting.

26  
27 (1) Income and Assets. A judge shall file such public report as may be required by law  
28 for all public officials to comply fully with the provisions of Article II, Section 8, of the  
29 Constitution of Florida. The form for public financial disclosure shall be that  
30 recommended or adopted by the Florida Commission on Ethics for use by all public  
31 officials. The form shall be filed with the Florida Commission on Ethics on the date  
32 prescribed by law, and a copy shall be filed simultaneously with the Judicial  
33 Qualifications Commission.  
34

35 (2) Gifts. A judge shall file a public report of all gifts which are required to be disclosed  
36 under Canon 5D(5)(h) of the Code of Judicial Conduct. The report of gifts received in  
37 the preceding calendar year shall be filed with the Florida Commission on Ethics on or  
38 before July 1 of each year. A copy shall be filed simultaneously with the Judicial  
39 Qualifications Commission.  
40

41 (3) Disclosure of Financial Interests Upon Leaving Office. A judge shall file a final  
42 disclosure statement within 60 days after leaving office, which report shall cover the  
43 period between January 1 of the year in which the judge leaves office and his or her last  
44 day of office, unless, within the 60-day period, the judge takes another public position  
45 requiring financial disclosure under Article II, Section 8, of the Constitution of Florida, or  
46 is otherwise required to file full and public disclosure for the final disclosure period. The

1 form for disclosure of financial interests upon leaving office shall be that recommended  
2 or adopted by the Florida Commission on Ethics for use by all public officials. The form  
3 shall be filed with the Florida Commission on Ethics and a copy shall be filed  
4 simultaneously with the Judicial Qualifications Commission.  
5

#### 6 C. Confidential Financial Reporting to the Judicial Qualifications Commission. 7

8 To ensure that complete financial information is available for all judicial officers, there  
9 shall be filed with the Judicial Qualifications Commission on or before July 1 of each  
10 year, if not already included in the public report to be filed under Canon 6B(1) and (2), a  
11 verified list of the names of the corporations and other business entities in which the  
12 judge has a financial interest as of December 31 of the preceding year, which shall be  
13 transmitted in a separate sealed envelope, placed by the Commission in safekeeping,  
14 and not be opened or the contents thereof disclosed except in the manner hereinafter  
15 provided.  
16

17 At any time during or after the pendency of a cause, any party may request information  
18 as to whether the most recent list filed by the judge or judges before whom the cause is  
19 or was pending contains the name of any specific person or corporation or other  
20 business entity which is a party to the cause or which has a substantial direct or indirect  
21 financial interest in its outcome. Neither the making of the request nor the contents  
22 thereof shall be revealed by the chair to any judge or other person except at the  
23 instance of the individual making the request. If the request meets the requirements  
24 hereinabove set forth, the chair shall render a prompt answer thereto and thereupon  
25 return the report to safekeeping for retention in accordance with the provisions  
26 hereinabove stated. All such requests shall be verified and transmitted to the chair of  
27 the Commission on forms to be approved by it.  
28

#### 29 D. Limitation of Disclosure. 30

31 Disclosure of a judge's income, debts, investments or other assets is required only to  
32 the extent provided in this Canon and in Sections 3E and 3F, or as otherwise required  
33 by law.  
34  
35

#### 36 COMMENTARY 37

38 Canon 6A. See Section 5D(5)(a)-(h) regarding reporting of gifts, bequests and loans.  
39

40 The Code does not prohibit a judge from accepting honoraria or speaking fees provided  
41 that the compensation is reasonable and commensurate with the task performed. A  
42 judge should ensure, however, that no conflicts are created by the arrangement. Judges  
43 must not appear to trade on the judicial position for personal advantage. Nor should a  
44 judge spend significant time away from court duties to meet speaking or writing  
45 commitments for compensation. In addition, the source of the payment must not raise  
46 any question of undue influence or the judge's ability or willingness to be impartial.

1 Canon 6C. Subparagraph A prescribes guidelines for additional compensation and the  
2 reimbursement of expense funds received by a judge.

3  
4 Subparagraphs B and C prescribe the three types of financial disclosure reports  
5 required of each judicial officer.

6  
7 The first is the Ethics Commission's constitutionally required form pursuant to Article II,  
8 Section 8, of the Constitution. It must be filed each year as prescribed by law. The  
9 financial reporting period is for the previous calendar year. A final disclosure statement  
10 generally is required when a judge leaves office. The filing of the income tax return is a  
11 permissible alternative.

12  
13 The second is a report of gifts received during the preceding calendar year to be filed  
14 publicly with the Florida Commission on Ethics. The gifts to be reported are in  
15 accordance with Canon 5D(5)(h). This reporting is in lieu of that prescribed by statute as  
16 stated in the Supreme Court's opinion rendered in In re Code of Judicial Conduct, 281  
17 So. 2d 21 (Fla.1973). The form for this report is as follows:

18  
19 Form 6A. Gift Disclosure

20  
21 All judicial officers must file with the Florida Commission on Ethics a list of all gifts  
22 received during the preceding calendar year of a value in excess of \$100.00 as  
23 provided in Canon 5D(5) and Canon 6B(2) of the Code of Judicial Conduct.

24  
25 Name:

26 \_\_\_\_\_

27 Telephone:

28 \_\_\_\_\_

29 Address:

30 \_\_\_\_\_

31 Position Held:

32 \_\_\_\_\_

33  
34 Please identify all gifts you received during the preceding calendar year of a value in  
35 excess of \$100.00, as required by Canon 5D(5) and Canon 6B(2) of the Code of  
36 Judicial Conduct.

37 \_\_\_\_\_

38 \_\_\_\_\_

39 \_\_\_\_\_

40 \_\_\_\_\_

41 \_\_\_\_\_

42  
43 OATH

44  
45 State of Florida

46 County of \_\_\_\_\_

1 I, \_\_\_\_\_, the public official filing this disclosure statement, being first duly sworn,  
2 do depose on oath and say that the facts set forth in the above statement are true,  
3 correct, and complete to the best of my knowledge and belief.

4 \_\_\_\_\_  
5 (Signature of Reporting Official)

6 \_\_\_\_\_  
7 (Signature of Officer Authorized to Administer Oaths)

8  
9 My Commission expires \_\_\_\_\_.  
10 Sworn to and subscribed before me this  
11 \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

12  
13  
14 COMMENTARY

15  
16 The third financial disclosure report is prescribed in subparagraph C. This provision  
17 ensures that there will be complete financial information for all judicial officers available  
18 with the Judicial Qualifications Commission by requiring that full disclosure be filed  
19 confidentially with the Judicial Qualifications Commission in the event the limited  
20 disclosure alternative is selected under the provisions of Article II, Section 8.

21  
22 The amendment to this Canon requires in 6B(2) a separate gift report to be filed with the  
23 Florida Commission on Ethics on or before July 1 of each year. The form to be used for  
24 that report is included in the commentary to Canon 6. It should be noted that Canon 5,  
25 as it presently exists, restricts and prohibits the receipt of certain gifts. This provision is  
26 not applicable to other public officials.

27  
28 With reference to financial disclosure, if the judge chooses the limited disclosure  
29 alternative available under the provision of Article II, Section 8, of the Constitution of  
30 Florida, without the inclusion of the judge's Federal Income Tax Return, then the judge  
31 must file with the Commission a list of the names of corporations or other business  
32 entities in which the judge has a financial interest even though the amount is less than  
33 \$1,000. This information remains confidential until a request is made by a party to a  
34 cause before the judge. This latter provision continues to ensure that complete financial  
35 information for all judicial officers is available with the Judicial Qualifications  
36 Commission and that parties who are concerned about a judge's possible financial  
37 interest have a means of obtaining that information as it pertains to a particular cause  
38 before the judge.

39  
40 Canon 6D. Section 3E requires a judge to disqualify himself or herself in any proceeding  
41 in which the judge has an economic interest. See "economic interest" as explained in  
42 the Definitions Section. Section 5D requires a judge to refrain from engaging in  
43 business and from financial activities that might interfere with the impartial performance  
44 of judicial duties; Section 6B requires a judge to report all compensation the judge  
45 received for activities outside judicial office. A judge has the rights of any other citizen,  
46 including the right to privacy of the judge's financial affairs, except to the extent that

1 limitations established by law are required to safeguard the proper performance of the  
2 judge's duties.  
3

1 **Canon 7. A Judge or Candidate for Judicial Office Shall Refrain From**  
2 **Inappropriate Political Activity**  
3  
4

5 A. All judges and Candidates.

6  
7 (1) Except as authorized in Sections 7B(2), 7C(2) and 7C(3), a judge or a candidate for  
8 election or appointment to judicial office shall not:

9  
10 (a) act as a leader or hold an office in a political organization;

11  
12 (b) publicly endorse or publicly oppose another candidate for public office;

13  
14 (c) make speeches on behalf of a political organization;

15  
16 (d) attend political party functions; or

17  
18 (e) solicit funds for, pay an assessment to or make a contribution to a political  
19 organization or candidate, or purchase tickets for political party dinners or other  
20 functions.

21  
22 (2) A judge shall resign from judicial office upon becoming a candidate for a non-judicial  
23 office either in a primary or in a general election, except that the judge may continue to  
24 hold judicial office while being a candidate for election to or serving as a delegate in a  
25 state constitutional convention if the judge is otherwise permitted by law to do so.

26  
27 (3) A candidate for a judicial office:

28  
29 (a) shall be faithful to the law and maintain professional competence in it, and shall not  
30 be swayed by partisan interests, public clamor, or fear of criticism;

31  
32 (b) shall maintain the dignity appropriate to judicial office and act in a manner consistent  
33 with the impartiality, integrity, and independence of the judiciary, and shall encourage  
34 members of the candidate's family to adhere to the same standards of political conduct  
35 in support of the candidate as apply to the candidate;

36  
37 (c) shall prohibit employees and officials who serve at the pleasure of the candidate,  
38 and shall discourage other employees and officials subject to the candidate's direction  
39 and control from doing on the candidate's behalf what the candidate is prohibited from  
40 doing under the Sections of this Canon;

41  
42 (d) except to the extent permitted by Section 7C(1), shall not authorize or knowingly  
43 permit any other person to do for the candidate what the candidate is prohibited from  
44 doing under the Sections of this Canon;

45  
46 (e) shall not:

1 (i) with respect to parties or classes of parties, cases, controversies, or issues that are  
2 likely to come before the court, make pledges, promises, or commitments that are  
3 inconsistent with the impartial performance of the adjudicative duties of the office; or  
4

5 (ii) knowingly misrepresent the identity, qualifications, present position or other fact  
6 concerning the candidate or an opponent;  
7

8 (iii) while a proceeding is pending or impending in any court, make any public comment  
9 that might reasonably be expected to affect its outcome or impair its fairness or make  
10 any nonpublic comment that might substantially interfere with a fair trial or hearing. This  
11 section does not apply to proceedings in which the judicial candidate is a litigant in a  
12 personal capacity.  
13

14 (iv) commend or criticize jurors for their verdict, other than in a court pleading, filing or  
15 hearing in which the candidate represents a party in the proceeding in which the verdict  
16 was rendered.  
17

18 (f) may respond to personal attacks or attacks on the candidate's record as long as the  
19 response does not violate Section 7A(3)(e).  
20

#### 21 B. Candidates Seeking Appointment to Judicial or Other Governmental Office. 22

23 (1) A candidate for appointment to judicial office or a judge seeking other governmental  
24 office shall not solicit or accept funds, personally or through a committee or otherwise,  
25 to support his or her candidacy.  
26

27 (2) A candidate for appointment to judicial office or a judge seeking other governmental  
28 office shall not engage in any political activity to secure the appointment except that:  
29

30 (a) such persons may:  
31

32 (i) communicate with the appointing authority, including any selection or nominating  
33 commission or other agency designated to screen candidates;  
34

35 (ii) seek support or endorsement for the appointment from organizations that regularly  
36 make recommendations for reappointment or appointment to the office, and from  
37 individuals; and  
38

39 (iii) provide to those specified in Sections 7B(2)(a)(i) and 7B(2)(a)(ii) information as to  
40 his or her qualifications for the office;  
41

42 (b) a non-judge candidate for appointment to judicial office may, in addition, unless  
43 otherwise prohibited by law:  
44

45 (i) retain an office in a political organization,  
46

1 (ii) attend political gatherings, and  
2

3 (iii) continue to pay ordinary assessments and ordinary contributions to a political  
4 organization or candidate and purchase tickets for political party dinners or other  
5 functions.  
6

7 C. Judges and Candidates Subject to Public Election.  
8

9 (1) A candidate, including an incumbent judge, for a judicial office that is filled by public  
10 election between competing candidates shall not personally solicit campaign funds, or  
11 solicit attorneys for publicly stated support, but may establish committees of responsible  
12 persons to secure and manage the expenditure of funds for the candidate's campaign  
13 and to obtain public statements of support for his or her candidacy. Such committees  
14 are not prohibited from soliciting campaign contributions and public support from any  
15 person or corporation authorized by law. A candidate shall not use or permit the use of  
16 campaign contributions for the private benefit of the candidate or members of the  
17 candidate's family.  
18

19 (2) A candidate for merit retention in office may conduct only limited campaign activities  
20 until such time as the judge certifies that the judge's candidacy has drawn active  
21 opposition. Limited campaign activities shall only include the conduct authorized by  
22 subsection C(1), interviews with reporters and editors of the print, audio and visual  
23 media, and appearances and speaking engagements before public gatherings and  
24 organizations. Upon mailing a certificate in writing to the Secretary of State, Division of  
25 Elections, with a copy to the Judicial Qualifications Commission, that the judge's  
26 candidacy has drawn active opposition, and specifying the nature thereof, a judge may  
27 thereafter campaign in any manner authorized by law, subject to the restrictions of  
28 subsection A(3).  
29

30 (3) A judicial candidate involved in an election or re-election, or a merit retention  
31 candidate who has certified that he or she has active opposition, may attend a political  
32 party function to speak in behalf of his or her candidacy or on a matter that relates to the  
33 law, the improvement of the legal system, or the administration of justice. The function  
34 must not be a fund raiser, and the invitation to speak must also include the other  
35 candidates, if any, for that office. The candidate should refrain from commenting on the  
36 candidate's affiliation with any political party or other candidate, and should avoid  
37 expressing a position on any political issue. A judicial candidate attending a political  
38 party function must avoid conduct that suggests or appears to suggest support of or  
39 opposition to a political party, a political issue, or another candidate. Conduct limited to  
40 that described above does not constitute participation in a partisan political party  
41 activity.  
42

43 D. Incumbent Judges. A judge shall not engage in any political activity except (i) as  
44 authorized under any other Section of this Code, (ii) on behalf of measures to improve  
45 the law, the legal system or the administration of justice, or (iii) as expressly authorized  
46 by law.

1 E. Applicability. Canon 7 generally applies to all incumbent judges and judicial  
2 candidates. A successful candidate, whether or not an incumbent, is subject to judicial  
3 discipline for his or her campaign conduct; an unsuccessful candidate who is a lawyer is  
4 subject to lawyer discipline for his or her campaign conduct. A lawyer who is a  
5 candidate for judicial office is subject to Rule 4-8.2(b) of the Rules Regulating The  
6 Florida Bar.

7  
8 F. Statement of Candidate for Judicial Office. Each candidate for a judicial office,  
9 including an incumbent judge, shall file a statement with the qualifying officer within 10  
10 days after filing the appointment of campaign treasurer and designation of campaign  
11 depository, stating that the candidate has read and understands the requirements of the  
12 Florida Code of Judicial Conduct. Such statement shall be in substantially the following  
13 form:

14  
15  
16 STATEMENT OF CANDIDATE FOR JUDICIAL OFFICE

17  
18  
19 I, \_\_\_\_\_, the judicial candidate, have received, have read, and understand  
20 the requirements of the Florida Code of Judicial Conduct.

21  
22  
23 Signature of Candidate

24  
25  
26 Date

27  
28  
29 COMMENTARY

30  
31 Canon 7A(1). A judge or candidate for judicial office retains the right to participate in the  
32 political process as a voter.

33  
34 Where false information concerning a judicial candidate is made public, a judge or  
35 another judicial candidate having knowledge of the facts is not prohibited by Section  
36 7A(1) from making the facts public.

37  
38 Section 7A(1)(a) does not prohibit a candidate for elective judicial office from retaining  
39 during candidacy a public office such as county prosecutor, which is not "an office in a  
40 political organization."

41  
42 Section 7A(1)(b) does not prohibit a judge or judicial candidate from privately  
43 expressing his or her views on judicial candidates or other candidates for public office.

44  
45 A candidate does not publicly endorse another candidate for public office by having that  
46 candidate's name on the same ticket.

1 Canon 7A(3)(b). Although a judicial candidate must encourage members of his or her  
2 family to adhere to the same standards of political conduct in support of the candidate  
3 that apply to the candidate, family members are free to participate in other political  
4 activity.

5  
6 Canon 7A(3)(e). Section 7A(3)(e) prohibits a candidate for judicial office from making  
7 statements that commit the candidate regarding cases, controversies or issues likely to  
8 come before the court. As a corollary, a candidate should emphasize in any public  
9 statement the candidate's duty to uphold the law regardless of his or her personal  
10 views. Section 7A(3)(e) does not prohibit a candidate from making pledges or promises  
11 respecting improvements in court administration. Nor does this Section prohibit an  
12 incumbent judge from making private statements to other judges or court personnel in  
13 the performance of judicial duties. This Section applies to any statement made in the  
14 process of securing judicial office, such as statements to commissions charged with  
15 judicial selection and tenure and legislative bodies confirming appointment.

16  
17 Canon 7B(2). Section 7B(2) provides a limited exception to the restrictions imposed by  
18 Sections 7A(1) and 7D. Under Section 7B(2), candidates seeking reappointment to the  
19 same judicial office or appointment to another judicial office or other governmental office  
20 may apply for the appointment and seek appropriate support.

21  
22 Although under Section 7B(2) non-judge candidates seeking appointment to judicial  
23 office are permitted during candidacy to retain office in a political organization, attend  
24 political gatherings and pay ordinary dues and assessments, they remain subject to  
25 other provisions of this Code during candidacy. See Sections 7B(1), 7B(2)(a), 7E and  
26 Application Section.

27  
28 Canon 7C. The term "limited campaign activities" is not intended to permit the use of  
29 common forms of campaign advertisement which include, but are not limited to,  
30 billboards, bumperstickers, media commercials, newspaper advertisements, signs, etc.  
31 Informational brochures about the merit retention system, the law, the legal system or  
32 the administration of justice, and neutral, factual biographical sketches of the candidates  
33 do not violate this provision.

34  
35 Active opposition is difficult to define but is intended to include any form of organized  
36 public opposition or an unfavorable vote on a bar poll. Any political activity engaged in  
37 by members of a judge's family should be conducted in the name of the individual family  
38 member, entirely independent of the judge and without reference to the judge or to the  
39 judge's office.

40  
41 Canon 7D. Neither Section 7D nor any other section of the Code prohibits a judge in the  
42 exercise of administrative functions from engaging in planning and other official  
43 activities with members of the executive and legislative branches of government. With  
44 respect to a judge's activity on behalf of measures to improve the law, the legal system  
45 and the administration of justice, see Commentary to Section 4B and Section 4C and its  
46 Commentary.

1 **Application of the Code of Judicial Conduct**

2  
3  
4 This Code applies to justices of the Supreme Court and judges of the District Courts of  
5 Appeal, Circuit Courts, and County Courts.

6  
7 Anyone, whether or not a lawyer, who performs judicial functions, including but not  
8 limited to a civil traffic infraction hearing officer , court commissioner, general or special  
9 magistrate , domestic relations commissioner, child support hearing officer, or judge of  
10 compensation claims, shall, while performing judicial functions, conform with Canons 1,  
11 2A, and 3, and such other provisions of this Code that might reasonably be applicable  
12 depending on the nature of the judicial function performed.

13  
14 Any judge responsible for a person who performs a judicial function should require  
15 compliance with the applicable provisions of this Code.

16  
17 If the hiring or appointing authority for persons who perform a judicial function is not a  
18 judge then that authority should adopt the applicable provisions of this Code.

19  
20 A. Civil Traffic Infraction Hearing Officer

21  
22 A civil traffic infraction hearing officer:

23  
24 (1) is not required to comply with Section 5C(2), 5D(2) and (3), 5E, 5F, and 5G, and  
25 Sections 6B and 6C.

26  
27 (2) should not practice law in the civil or criminal traffic court in any county in which the  
28 civil traffic infraction hearing officer presides.

29  
30 B. Retired/Senior Judge

31  
32 (1) A retired judge eligible to serve on assignment to temporary judicial duty, hereinafter  
33 referred to as "senior judge," shall comply with all the provisions of this Code except  
34 Sections 5C(2), 5E, 5F(1), and 6A. A senior judge shall not practice law and shall refrain  
35 from accepting any assignment in any cause in which the judge's present financial  
36 business dealings, investments, or other extra-judicial activities might be directly or  
37 indirectly affected.

38  
39 (2) If a retired justice or judge does not desire to be assigned to judicial service, such  
40 justice or judge who is a member of The Florida Bar may engage in the practice of law  
41 and still be entitled to receive retirement compensation. The justice or judge shall then  
42 be entitled to all the rights of an attorney-at-law and no longer be subject to this Code.  
43

1 **Effective Date of Compliance**

2  
3

4 A person to whom this Code becomes applicable shall comply immediately with all  
5 provisions of this Code except Sections 5D(2), 5D(3) and 5E and shall comply with  
6 these Sections as soon as reasonably possible and shall do so in any event within the  
7 period of one year.

8  
9

10 **COMMENTARY**

11

12 If serving as a fiduciary when selected as judge, a new judge may, notwithstanding the  
13 prohibitions in Section 5E, continue to serve as fiduciary but only for that period of time  
14 necessary to avoid serious adverse consequences to the beneficiary of the fiduciary  
15 relationship and in no event longer than one year. Similarly, if engaged at the time of  
16 judicial selection in a business activity, a new judge may, notwithstanding the  
17 prohibitions in Section 5D(3), continue in that activity for a reasonable period but in no  
18 event longer than one year.